

### City of Portland

### **Bureau of Development Services**

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201

Telephone: 503-823-7300 TDD: 503-823-6868 FAX: 503-823-5630 www.portlandonline.com/bds

**Date:** June 19, 2008 **To:** Interested Person

**From:** Sean Williams, Land Use Services

503-823-7612 / sean.williams@ci.portland.or.us

# NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 07-167053 LDP

#### GENERAL INFORMATION

**Applicant:** Anne Kari & James P. Wortmann

2325 NE 15th Avenue Portland, OR 97212-4219

**Representative:** Peter Finley Fry

2153 SW Main street, #105

Portland, OR 97205 (503)-274-2744

Site Address: 1715 SE ASH ST

Legal Description: LOT 4 BLOCK 9, NICHOLSONS ADD

**Tax Account No.:** R604801060 **State ID No.:** 1N1E35DC 06600

**Quarter Section:** 3032

**Neighborhood:** Buckman, contact Susan Lindsay at 503-725-8257.

**Business District:** E. Burnside Business Association, contact Judy Crain at 503-234-2514.

**District Coalition:** Southeast Uplift, contact Gary Berger at 503-232-0010.

**Plan District:** None

**Zoning:** Residential 2,500 (R2.5) **Case Type:** Land Division Partition (LDP)

**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use

Board of Appeals (LUBA).

#### Proposal:

The applicant is proposing to partition the subject property into two parcels of equal size at 2,500 square feet. The site is a corner lot with frontage on SE Ash Street and SE 17<sup>th</sup> Avenue. An existing dwelling is present on the eastern half of the site and will remain on proposed Parcel 2. Parcel 1 will be made available for development consistent with R2.5 zone standards.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

#### Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

#### ANALYSIS

**Site and Vicinity:** The subject property is a corner lot with 100 feet of frontage on SE Ash Street and 50 feet of frontage on SE 17<sup>th</sup> Avenue. An existing dwelling is located on the eastern half of the site and will be retained on proposed Parcel 2. No trees are present within the land division site subject to preservation standards. The site is approximately 2 feet above grade of the adjacent streets. A mixture of development is present within the vicinity of the land division site due to a proximity to E Burnside of 400 feet. Commercial zoning (CO1) and development is adjacent to the east and varying multi and single dwelling zones are located in the vicinity of the site.

**Zoning:** The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Land Use History: City records indicate there are no prior land use reviews for this site.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on October 23, 2007.

- **1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.
- **2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

#### APPROVAL CRITERIA-

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.611	Lots	Applicable - See findings below.

Criterion	Code Chapter	Topic	Applicability Findings	
В	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located on the site.	
С	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.	
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.	
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.	
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units	
G	33.635 .100	Clearing and Grading	Applicable - See findings below.	
G	33.635 .200	Land Suitability	Applicable - See findings below.	
Н	33.636	Tracts and Easements	Applicable - See findings below.	
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).	
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.	
K	33.641	Transportation Impacts	Applicable - See findings below.	
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below.	

#### **Applicable Approval Criteria are:**

### A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

**Findings:** Chapter 33.611 contains the density and lot standards applicable in the R2.5 zone. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

#### Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, and the site is <u>not</u> within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum =  $(5,000 \text{ square feet * }.80) \div 5,000 \text{ square feet = } 0.80 \text{ (which rounds up to a minimum of 1 lot, per 33.930.020.A)}$ 

Maximum = 5,000 square feet  $\div 2,500$  square feet = 2

The applicant is proposing 2 lots. The density standards are therefore met.

#### Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Chapter 33.611of the Zoning Code):

	R2.5 Zone Requirement	Proposed Lot 1	Proposed Lot 2
Minimum Lot Area	1,600 sq. ft.	2,500 sq.	2,500 sq.
Maximum Lot Area	NA	ft.	ft.
Minimum Lot Width*	36 ft.	50 ft.	50 ft.
Minimum Lot Depth	40 ft.	50 ft.	50 ft.
Minimum Front Lot Line	30 ft.	50 ft.	50 ft.

<sup>\*</sup> Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met. This criterion is therefore met.

# G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

#### 33.635.100 - Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.

**Findings:** The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable.

The subject property does not contain any trees subject to preservation standards. However, a large Tulip Poplar tree is located in the planter strip along SE 17<sup>th</sup> Avenue adjacent to the site. The City Urban Forester has indicated that a large portion of this trees root system is located within proposed Parcel 1. Due to potential impacts produced from site development on the adjacent street tree the Urban Forester is requiring that grading not commence for Parcel 1 without an on-site inspection from a City of Portland certified arborist. See Exhibit E-6 for more details.

With the condition of approval described above, this criterion is met.

#### 33.635.200 - Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

**Findings:** The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

#### 33.636.100 Requirements for Tracts and Easements

- A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:
  - 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;
  - 2. The Homeowners' Association for the area served by the tract;
  - 3. A public or private non-profit organization; or
  - 4. The City or other jurisdiction.

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

**Findings:** A Private Sanitary Sewer Easement is required across the relevant area of the land division site benefiting the adjacent property to the north with the house addressed 124 SE 17<sup>th</sup> Avenue. Further described in Criterion L Services and Utilities, this easement is necessary to accommodate an existing situation.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement described above and facilities within this area. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

"A Declaration of Maintenance agreement for Private Sanitary Sewer Easement has been recorded as document no. \_\_\_\_\_\_, Multnomah County Deed Records."

With the conditions of approval discussed above, this criterion is met.

## K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; onstreet parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

**Findings:** The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 100 feet of frontage on SE Ash Street and 50 feet of frontage on SE 17th Avenue. SE Ash Street and SE 17th Avenue are both classified as local service streets for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides frequent transit service approximately 460 feet from the site on the corner of E Burnside and SE 18th Avenue via bus number 19 and 20. Parking is currently allowed on SE Ash Street and SE 17th Avenue on both sides. There is one driveway entering the site from SE Ash Street that provides access to off-street parking for the existing house.

SE Ash Street is improved with a 36 foot paved surface and pedestrian corridor consisting of a 4 foot planter strip, 6 foot sidewalk and 2 foot frontage zone within a 60 foot right-of-way. SE 17<sup>th</sup> Avenue is improved with a 28 foot paved surface and pedestrian corridor consisting of a 8 foot planter strip, 6 foot sidewalk and 2 foot frontage zone within a 60 foot right-of-way. The existing right of way configuration and pedestrian corridor for both SE Ash Street and SE 17<sup>th</sup> Avenue meet applicable City standards and are consistent with development in the area. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street

improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street network without having any significant impact on the level of service provided.

It should be noted that PDOT requires a minimum driveway setback of 25 feet from intersections to be measured from the property line. This requirement may potentially preclude the placement of a driveway off of SE 17<sup>th</sup> Avenue based on the location of the Tulip Poplar tree within the planter strip as noted in the findings related to Clearing and Grading.

This criterion is met.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. An existing 6 inch water main is available in SE Ash Street. Parcel 2 has an existing 5/8 inch metered water service that may continue to serve the existing dwelling. Water is available to serve Parcel 1 from the water main in SE Ash Street. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 10 inch VSP combined gravity main located in SE Ash Street. Plumbing records indicate that the existing house is connected to the main located in SE Ash Street via a "wye" connection within the public right of way. The sewer lateral connection that serves the existing house additionally serves the house (124 SE 17<sup>th</sup> Avenue) on the adjacent property to the north. Therefore, the applicant must establish a sanitary sewer easement across the relevant area of the land division site benefiting the adjacent property to the north with the house addressed 124 SE 17<sup>th</sup> Avenue. A Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, the development site is located in an area where the connectivity standards are being met. No new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. As a result, the remaining standards and approval criteria related to street connectivity, location, and design are not applicable.

#### 33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

**Findings:** No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's <u>Stormwater Management Manual</u>. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The <u>Stormwater Management Manual</u> contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the <u>Stormwater Management Manual</u>, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- Parcel 2 (the parcel with the existing house): The existing house has downspouts that are connected to underground pipes. Plumbing permit records indicate that rain drains are directed to the combination sewer. Site Development has indicated that the existing method of stormwater disposal is acceptable.
- Parcel 1: Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. A simplified infiltration test was performed on the site to verify that infiltration is feasible for stormwater management. Site Development has indicated conceptual approval of the infiltration test and drywell (Exhibit G-3). As a requirement prior to preliminary plat approval, BES required demonstration of a conceptual building footprint and drywell for Parcel 1 meeting required setbacks. The revised plan submitted to BES is acceptable with the exception of drywell locations. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities that meet required setbacks shall be provided on the supplemental site plan prior to final plat approval.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

#### DEVELOPMENT STANDARDS

**General Information about Development Standards and Approval Criteria.** The Zoning Code contains two types of regulations: Development standards and Approval criteria.

**Approval criteria,** such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

**Development Standards:** Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area).

Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there is one Zoning Code standard that relates to existing development on the site:

• <u>Minimum Setbacks</u> – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed <u>new</u> lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 6.5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

#### OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code	Topic	Contact Information
	Authority		
Water Works	Title 21	Water	503-823-7404
		availability	http://www.water.ci.portland.or.us/
Environmental Title 17; 2002		Sewer	503-823-7740
Services	Stormwater	availability	http://www.bes.ci.portland.or.us/
	Manual	Stormwater	
		Management	
Fire Bureau	Title 31	Emergency	503-823-3700
	Policy B-1	Access	http://www.fire.ci.portland.or.us/
Transportation	Title 17,	Design of public	503-823-5185
	Transportation	street	http://www.trans.ci.portland.or.us/
	System Plan		
Development	Titles 24 –27,	Building Code,	503-823-7300
Services	Admin Rules for	Erosion Control,	http://www.bds.ci.portland.or.us.
	Private Rights	Flood plain, Site	
	of Way	Development &	
		Private Streets	

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau in regards to aerial fire
  department access roads or the height of new development shall be limited to 30-feet
  measured to the eaves. These requirements are based on the technical standards of
  Oregon Fire Code.
- The applicant shall meet the requirements of Urban Forestry regarding preservation of the Tulip polar tree located in the planter strip within SE 17<sup>th</sup> Avenue adjacent to the site. Due to the prominence of this tree's root system within proposed Parcel 1 Urban Forestry is requiring the following conditions relating to site development:
  - All utilities for Parcel 1 shall be provided from the available service(s) within SE Ash Street.
  - > Stormwater facilities for Parcel 1 shall be located as far as practicable from the street tree.
  - Grading for Parcel 1 shall not commence without an on-site inspection from a City of Portland certified arborist.
  - ➤ A tree protection fence may be required to minimize root damage.

These requirements are based on the standards of Title 20. Contact Myles Black (503-823-4018) with questions or to schedule a meeting. See Exhibit E-6 for more details.

#### CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are Stormwater management, Utilities and a Street tree.

With conditions of approval that address these requirements this proposal can be approved.

#### ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2 parcel partition, that will result in 2 standard parcels within the residential 2,500 (R2.5) zone of which one will contain an existing dwelling, as illustrated with Exhibit C-1, subject to the following conditions:

- **A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
  - Any buildings or accessory structures on the site at the time of the final plat application;
  - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
  - The proposed general location of future building footprints and stormwater facilities for each of the vacant lots;
  - Existing/proposed sanitary sewer service and easements;
  - Any other information specifically noted in the conditions listed below.

#### B. The final plat must show the following:

1. A private sanitary sewer easement, for the benefit of property identified as Lot 3, Block 9, Nicholson's Addition (124 SE 17<sup>th</sup> Avenue), shall be shown and labeled over the relevant portions Parcel 1 and 2 to the satisfaction of the Bureau of Environmental Services and Site Development Section of BDS.

2. A recording block for the maintenance agreement associated with the Private Sanitary Sewer Easement as required by Condition C-2 below. The recording block shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for Private Sanitary Sewer Easement has been recorded as document no. \_\_\_\_\_\_, Multnomah County Deed Records."

#### C. The following must occur prior to Final Plat approval:

#### **Required Legal Documents**

1. A Maintenance Agreement shall be executed for the Private Sanitary Sewer Easement area described in Condition C-1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

### D. The following conditions are applicable to site preparation and the development of individual lots:

- 1. The applicant shall meet the requirements of Urban Forestry regarding preservation of the Tulip polar tree located in the planter strip within SE 17<sup>th</sup> Avenue during construction (Exhibit E-6). Protection measures shall include:
  - All utilities for Parcel 1 shall be provided from the available service(s) within SE Ash Street.
  - Stormwater facilities for Parcel 1 shall be located as far as practicable from the street tree.
  - Grading for Parcel 1 shall not commence without an on-site inspection from a City of Portland certified arborist. Contact Urban Forestry at 823-4018 to schedule an inspection.
  - A tree protection fence may be required to minimize root damage.

2. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.

Decision rendered by:

on June 16, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: June 19, 2008

Staff Planner: Sean Williams

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on October 3, 2007, and was determined to be complete on October 18, 2007.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on October 3, 2007.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit G-2.

#### Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at www.portlandonline.com.

Recording the land division. The final land division plat must be submitted to the City within three years of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice

- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau

  - 4. Fire Bureau5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner
- F. None
- G. Other:
  - 1. Original LU Application
  - 2. 120-Day Waiver
  - 3. Infiltration test & approval

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



